

**GOVERNMENT OF ANDHRA PRADESH**  
**ABSTRACT**

SWD – APSWREIS – Regularization of services of Adhoc Teachers working in APSWRE Institutions – Cancellation of regularization orders issued in G.O.Ms.No.124, S.W. (K) Dept., dt. 27.11.1995 and G.O.Rt.No.83, S.W. (RS.1) Dept., dt. 11.2.2000 – Cancellation orders – issued

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**SOCIAL WELFARE (RS.1) DEPARTMENT**

G.O.Ms.No. 26

Dated:11-04-2011  
Read the following

1. G.O.MS.No.124, S.W.(K) Dept., dated 27-11-1995.
2. G.O.Rt.No. 83, S.W.(RS.1) Dept., dated: 11.2.2000.
3. Show-cause Notice, Rc.No. Z-III/327/1996, dt. 17-11-2003 issued by the Secretary, APSWREIS to Smt.G. Mahitha Kumari, TGT(English).
4. Show-cause Notice, Rc.No. Z-IV/1146/99, dt. 31.7.2001 issued by the Secretary, APSWREIS to Smt. Faizunnisa, TGT (Hindi).
5. Show-cause Notice .Rc.No. Z-IV/1199/98, dt. 28-10-2003 issued by the Secretary, APSWREIS to Sri. A. Narayana Swamy, TGT(SS)
6. Show-cause Notice .Rc.No. Z-V/1598/2003, dt. 17-11-2003 issued by the Secretary, APSWREIS to Sri. Ch. Krishna Mohan Rao, TGT(Maths).
7. From The Secretary, APSWREIS, Hyderabad, Rc.No. Z-IV/1199/1998, dt. 15.05.2004
8. From the Secretary, APSWREIS, Hyderabad, Lr.Rc.No. C1/33763/2000, dated: 12-01-2004.

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ORDER:-

In the reference 1<sup>st</sup> read above orders were issued regularizing the services of Sri Ch. Krishna Mohan Rao, TGT(Maths), Smt. G. Mahitha Kumari, TGT(English) and Smt. Faizunnisa, TGT (Hindi) along with others and in the reference 2<sup>nd</sup> cited orders were issued regularizing the services of Sri A. Narayana Swamy, TGT (Social) along with others.

In the reference 3<sup>rd</sup> to 6<sup>th</sup> read above, Show -Cause Notices were issued by the Society to the individuals to Show-Cause as to why the orders of regularization issued in the G.Os 1<sup>st</sup> and 2<sup>nd</sup> read above should not be cancelled for the reasons that they were not possessing the requisite qualifications to hold the post of TGT in terms of G.O.Ms.No.212, F& P (PC.III) Dept., dt. 22.4.1994.

The individuals have submitted their explanations to the Show Cause Notices issued by the Secretary, APSWREIS, Hyderabad as detailed below:-

**1. Smt. G. Mahitha Kumari, TGT(English)**

In her explanation she submitted that she was appointed as TGT (English) by the Dist. collector, Guntur District on consolidated pay. She joined duty on 29-1-87. Later she was continued in service through the orders of the Hon'ble High Court. She was paid regular pay from 14.06.1993 as per the Orders of the Hon'ble High Court.

The Government issued orders in G.O.Ms.No.212, Finance (PC.III) Dept., dt. 22.04.1994 for regularization of services of part time teachers. Accordingly the Board of Governors of the APSWREI Society, Hyderabad in their resolution gave certain relaxations like III class degree for regularization of the services, for the Adhoc teachers who fulfilled the other requisites as per G.O.Ms.No.212, Finance (PC.III) Dept., dt. 22-04-1994. Guidelines were issued through G.O.Ms.No.124, S.W.(K) Dept., dt. 27.11.1995.

As she fulfilled the requisites for regularization, including relaxation in qualification (III Class degree), her services were regularized vide Rc.No. 2/3421/96 of the Secretary, APSWREIS, Hyderabad under rule 10 of the Service rules of the APSWREI Society.

More over by the time of issuing regularization orders, she crossed the age limit for applying a Govt. Post so considering her case on humanitarian grounds also, the regularization orders were given keeping her services in view.

At present she is aged (53) years and she has just five years of service for superannuation (since retired). At this juncture issuing a show cause notice to cancel her regularization orders will deny all service benefits to her.

Hence she submitted that her regularization is in accordance with the rules in force at that time. More over the standard of qualification required for the post of TGT were amended (1<sup>st</sup> class PG) in standing order No.33/97. As her services were regularized in 1995, the standing order No.33/97 does not apply to her case.

In view of all the above facts she submitted that her regularization orders shall not be cancelled. She further requested to consider her case on humanitarian grounds, keeping her age also in view.

## **2. Smt. Faizunnisa, TGT (Hindi).**

In her explanation dt.27.08.2001 has submitted that she was appointed as TGT (Hindi) at Kalasamudram, Anantapur Dist. in APSWR School on Adhoc basis by the District Collector, Anantapur, being the Chairman of DSWREI through Rc.No. 51/656/86, dt.4.11.1986.

Her case was not considered as she secured only III class in B.A Degree. She was appointed as she fulfilled all the requisite qualifications at the time of her initial entry into the service on 10.11.1986. Subsequently the Government established a state level Society named as "The A.P. Social Welfare Residential Educational Institutions Society" to supervise, control and manage the SWR Schools, vide G.O.Ms.No.245, dt. 3.10.1986 of Social Welfare Department. The State Society framed its Bye-laws and service Rules in the year 1987. State Society framed the educational qualifications containing a clause to the effect that she should have 50% marks in her B.A. Degree, for being appointed. The subsequent prescription of qualifications cannot be reckoned for considering her regularization. Educational qualification is a fact or relevant for consideration at the time of initial entry into the service and not thereafter and she cannot be denied the benefit of regularization for not possessing the qualifications prescribed much later.

The Board of Governors in their XVI meeting held on such employees by relaxing their qualifications w.e.f. 16.10.1992, in view of their long service. The relaxation of qualifications should have been applied to her and also her services would have been regularized from the date of the resolution of Board of Governors i.e., from 16-10-1992.

She has further submitted that in pursuance of the above said relaxation in qualification, the services of Smt. G. Mahitha Kumari, TGT (English) who was working on Adhoc basis in APSWR School, T. Sundur, Guntur Dist. w.e.f.27-1-1987 (who passed B.A. in III Class) were regularized as she was covered under the Provision contained under G.O.Ms.No.212, Finance & Planning, dt. 22-4-94 and her name stood in the Annexure-I of G.O.Ms.No.124, SW(K) Dept., dt. 27-11-95 in which Government have appointed individuals on daily wages/NMR and on

consolidation of pay etc. the regularization orders of the above individual were ratified in the XXIX meeting of Board of Governors held on 20.5.1998. In view of the above decision, her services also would have been regularized as her case is also of similar nature and her name also appeared in G.O.Ms.No. 124, dt. 27.11.1995.

Having failed to draw the attention of the authorities to the injustice caused to her. I approached Hon'ble High Court with her grievances vide W.P.No.5805/2000. The Hon'ble High Court on 10-4-2000 issued orders in her favour stating that

“As her service were already regularized by the proceedings of the Secretary of the Society dt.27-10-1999, she shall be given the regular pay scale with all allowances and perquisite and shall be allowed to enjoy all the benefits attached to the Post of Trained Graduate-Teachers”

In consequence of the Court order, the authorities were kind enough to issue Proceedings vide Rc.No. Z-IV/1144/99, dated: 25-9-2000 of the Secretary, APSWREI Society, stating that in view of the G.O.ms.No.124, dt. 27.11.95 and the precedent of the 29<sup>th</sup> Board resolution dt. 19.6.98 in which orders were given to regularize the services of Smt. B. Mahitha Kumari (TGT (English)) and also in conformity with the High court directions in W.P.No.5805/2000, and the Proceedings issued in Rc.No. Z-IV/40000/98, dt. 27.10.1999 wherein the regularization and the probation of her service was declared are confirmed.

The individual requested to confirm her regularization and declaration of probation.

### **3. Sri A. Narayana Swamy, TGT (Social).**

In his explanation dt.05.11.2003 submitted that he was appointed as part-time TGT w.e.f 27.8.1986 on Adhoc basis. Since then he is working in the Society. Subsequently he Passed the M.A. Examination from Sri. Krishnadevaraya University, Anantapur in June 1995 in Second Class in the subject of History. Then the qualification prescribed for the post of P.G.T was a pass in M.A in Second Class and B.Ed. As he fulfilled the qualification then in vogue for the post of P.G.T. He submitted an application with the marks list and the M.A certificate to the Society requesting regularization of his services in the post of TGT.

He has also submitted that instead of regularizing of his services under the rules of the Society then existing, his name was included under the provisions of G.O.Ms.No. 212, F& P(FW-PCIII) Dept., dt. 22.4.94 and proposals for regularization of services were submitted to the Government by the Society in Rc.D1/4903/94, dt. 31.3.1997.

He has further submitted that the Government in their order G.O.Rt.No. 83, S.W.(RS.1) Dept., dt. 11.2.2000 approved his name for regularization of services and accordingly his services were regularized in the category of TGTs in Proceedings No.Rc. Zone-IV/1199/99, dated: 06.07.2000 of the Society.

He submitted that he was qualified for the post of post Graduate Teacher by passing M.A in Second Class in the year 1996. Then the same were qualifications prescribed for the post of P.G.T. Thus he was eligible for regularization of services without the intervention of the provisions of G.O.Ms.No. 212, F&P, dt. 22.4.94. with effect from the date of passing of his M.A Degree Examination i.e, June 1995. But his services were regularized with effect from 11.2.2000.

While the matter was under examination and consideration, the qualifications were enhanced for the posts of P.G.T and TGT in the Society's standing order No.33/97 dt. 8-12-1997 by which date he was already in service

and got himself qualified under the rules then in vogue. Therefore, he submitted that, he deserves to be exempted from the new provisions.

He has finally submitted that under the provisions of the saving clause (Rule 39) of the A.P. state and subordinate service Rules issued in G.O.Ms.No. 436, GA(Services. D) Dept., dt. 15.10.1996, a person who was already in service, either on regular basis or on temporary basis, should not be adversely affected by the Rules promulgated newly. As on the date of promulgation of the new Rule vide standing order No.33 dt. 8.12.97, he was already a member of the service and the matter of regularization of his services was under the consideration of both the head of the Department i.e., the Society and the Government. Therefore, He is eligible for exemption from the new rule.

He has submitted that his services ought to have been regularized with effect from the date of his acquiring the qualification (i.e., the last day of the qualifying examination) i.e., June 1995 and not 11.2.2000 as was done by the Society.

He has requested that his services kindly be regularized with effect from June 1995, i.e, the date of his passing of M.A. Examination and the mistake crept in the orders of regularization of his services should be rectified.

In the reference 8<sup>th</sup> read above, the Secretary, APSWREIS, Hyderabad while submitting the show-cause notices and explanations of the above individuals, requested the Government to cancel the regularization of 1. Ch. Krishna Mohan Rao, TGT(Maths), 2. G. Mahitha Kumari, TGT(English), 3. Faizunnisa, TGT(Hindi), 4. A. Narayana Swamy, TGT (Social) erroneously regularized in G.O.MS.No.124, S.W.(K) Dept., dated 27-11-1995 and G.O.Rt.No.83, S.W.(RS.1)) Dept., dated: 11.2.2000 as they were not possessing the requisite the qualifications of the post held by them.

4. **Sri. Ch. Krishna Mohan Rao, TGT(Maths):**

In his explanation, he stated that he was appointed on 2.2.1988 on Adhoc basis at APSWRS, Mallapur, Karimnagar Dist. The Govt. issued orders permitting to regularize the services of Sri ch. Krishna Mohan Rao, vide G.O.Ms.No.124, S.W.(K) Dept., dt. 27-11-1995. Accordingly his services were regularized. He was continuing in service and recalled regular pay scale attached to the post.

He has stated that the educational qualifications are a factor to be reckoned at the time of initial entry into service. The service rules came into force after his entry into Society and also after issue of G.O.Ms.No. 212, The educational qualifications fixed at the time of his initial entry in to service confer right and such right cannot be taken away by rule of G.O.Ms.No.212, Finance (PC.III) Dept., dt. 22.4.1994.

The rule framed subsequently to his appointment can have only prospective effect. As per rule I of G.O.Ms.No.212, Finance (PC.III) Dept., dt. 22.4.1994, the date from which the services have to be regularized means, in the year 1989 itself, as there were no service rules at that time.

He has stated that he had put in 16 years of service (as on 10.12.2003) and acquired substantial experience in teaching the subject. Therefore, he requested to drop all further action pursuant to the Show Cause notice.

In this connection the Hon'ble Supreme Court of India passed orders in SLPs filed by the Government of Andhra Pradesh challenging the Act 27 of 1998 relating to regularization of services of Daily Wage/ NMR or on consolidated pay/ Part time employees. The Judgment by the Hon'ble Supreme Court avers as follows:-

“ it is however made clear that daily wage employees and others who are covered by Section 7 of the 1994 Act (amended) and whose services have not been regularized so far, shall be entitled to be considered for regularization and their services shall be regularized subject to fulfillment of the conditions enumerated in GO 212, dt.22.04.1994. With a view to obviate further litigation on this issue, we direct the Government of Andhra Pradesh, its officers and agencies / instrumentalities of the State to complete the exercise for regularization of the services of eligible employees within four months of the receipt / production of copy of this order, without being influenced by the fact that the application, writ petition or appeal filed by any such employee may have been dismissed by the Tribunal or High Court or this Court. Since some of the appeals decided by this order relate to part time employees, we direct that similar exercise be undertaken in their cases and completed within four months keeping in view the conditions enumerated in GO (P) No.112, dt.23.07.1997.”

The explanations submitted by the individuals are not convincing in view of the fact that they were regularized without possessing requisite qualifications as per the conditions in G.O.MS.No.212, Finance (PC.III) Dept., Dt. 22-4-1994.

Government have examined the matter carefully with reference to the condition laid down in G.O.Ms.No.212, Finance (PC.III) Dept., dt. 22-04-1994 that the persons appointed should possess the qualifications prescribed as per rules in force as on the date, which his/her services have to be regularized.

In view of the Hon'ble Supreme Court Judgment, Government consider it necessary to cancel the orders issued in the G.O.MS.NO.124, S.W.(K) Dept., Dated 27-11-1995 regularizing the services of 1. Smt. G. Mahitha Kumari, TGT English, 2. Smt. Faizunnisa, TGT Hindi 3. Sri. Ch. Krishna Mohan Rao, TGT(Maths) and G.O.RT.NO.83, S.W.(RS.1) Dept., Dated: 11-2-2000 regularizing the services of Sri A. Narayana Swamy, TGT(SS).

Accordingly, in partial modification of orders issued in G.O.Ms.No. 124, S.W.(K) Dept., Dt. 27-11-1995 and G.O.Rt.No.83, S.W.(RS.1) Dt. 11-2-2000, Government hereby cancel the regularization orders of 1. Smt. G. Mahitha Kumari, TGT (English) 2. Smt. Faizunnisa, TGT (Hindi) 3. Sri. Ch. Krishna Mohan Rao, TGT(Maths) 4. Sri Narayana Swamy, TGT(SS).

The Secretary, APSWREIS is directed to take necessary action accordingly.

This order issues with the concurrence of Finance (PC.III) Dept., vide their U.O.No.8698/180/A1/PC.III/2011, dated:30-03-2011.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

**J. RAYMOND PETER  
PRINCIPAL SECRETARY TO GOVERNMENT**

To  
The Secretary, APSWREIS, Hyderabad  
The Individuals concerned  
The Accountant General, AP, Hyderabad  
The Finance and Planning (FW.PC.III)  
Department  
Sf/Sc.

// FORWARDED:: BY ORDER //

SECTION OFFICER